

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

6 RONALD MAZZAFERRO, pro se,

Petitioner,

VS.

9 UNITED STATES OF AMERICA,
10 INTERNAL REVENUE SERVICE, and
MARY C. ROWLAND, Revenue Agent.

Respondents.

Case No: C 10-80186-MISC SBA

**ORDER GRANTING
PETITIONER'S REQUEST TO
CONTINUE HEARING**

Docket 6

13 On July 21, 2010, Petitioner filed a Petition to Intervene to Quash IRS Third Party
14 Summons. Dkt. 1. On October 12, 2010, Respondents filed a motion to dismiss the
15 Petition and for an order to enforce the summons, which is supported by the declaration of
16 Agent Rowland. Dkt. 3. Respondents' motion is set for hearing on December 14, 2010.
17 Under Civil Local Rule 7-3(a), any opposition to Respondents' motion was due within
18 twenty-one days of the hearing date, meaning that Petitioner's response was due by
19 November 23, 2010. No opposition was received by that date.

20 On December 2, 2010, Petitioner filed a request to vacate the December 14, 2010
21 hearing, claiming that he never was served with Respondents' motion papers. Dkt. 6.
22 Although Respondents' motion is accompanied by a proof of service, the proof of service is
23 undated and unsigned. Dkt. 3 at 11. As such, it is unclear whether Petitioner was, in fact,
24 served by Respondents. Accordingly,

IT IS HEREBY ORDERED THAT:

26 1. Petitioner's request to vacate the December 14, 2010, hearing date on
27 Respondents' motion to dismiss and for summary enforcement is GRANTED.

1 2. Respondents shall forthwith re-serve their motion to dismiss and for summary
2 enforcement and any supporting documents on Petitioner at the address listed on his most
3 recent court filing (Dkt. 6), and shall e-file a certificate of service accordingly.

4 3. Petitioner shall have until to December 23, 2010, to file and serve his
5 opposition or statement of non-opposition to Respondents' motion to dismiss and for
6 summary enforcement. The Court will not consider any papers submitted by Petitioner
7 after that date. FAILURE TO TIMELY FILE AN OPPOSITION WILL BE DEEMED TO
8 BE A CONSENT TO THE GRANTING OF RESPONDENTS' MOTION.

9 4. In the event Petitioner files an opposition, Respondents shall have until
10 January 7, 2011, to file their reply.

11 5. The hearing on Respondents' motion to dismiss and for summary
12 enforcement is CONTINUED from December 14, 2010, to February 8, 2011, at 1:00 p.m.
13 The Court may resolve the motion without oral argument. See Fed.R.Civ.P. 78(b); Civ.
14 L.R. 7-1(b). The parties are advised to check the Court's website to determine whether an
15 appearance on the motion is required.

16 IT IS SO ORDERED.

17 Dated: December 7, 2010



SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RONALD MAZZAFERRO,

Plaintiff,

UNITED STATES OF AMERICA et al,

Defendant.

Case Number: CV10-80186 SBA

CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on December 7, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
located in the Clerk's office.

18 Ronald Mazzaferro
P.O. Box 536
19 El Verano, CA 95433

20 | Dated: December 7, 2010

Richard W. Wieking, Clerk

By: LISA R CLARK, Deputy Clerk